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10/526,587	02/28/2005	Akira Sano	JP920020141US1	3809
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Greg Goshorn, P.C. 9600 Escarpment Suite 745-9 AUSTIN, TX 78749			EXAMINER BENOIT, ESTHER	
			ART UNIT 2453	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/526,587  
Filing Date: February 28, 2005  
Appellant(s): SANO, AKIRA

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Gregory K. Goshorn  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/6/2010 appealing from the Office action mailed 6/4/2010.

**(1) Real Party in Interest**

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The following is a list of claims that are rejected and pending in the application:

- Claims 8 and 21-30 are rejected and pending in the application.

**(4) Status of Amendments After Final**

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

**(5) Summary of Claimed Subject Matter**

The examiner has no comment on the summary of claimed subject matter contained in the brief.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

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subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

**(7) Claims Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

**(8) Evidence Relied Upon**

Kreger (*Web Services Conceptual Architecture (WSCA 1.0)*, May 2001), hereinafter "Kreger".

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

- I. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- II. Claims 8 and 21-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kreger (*Web Services Conceptual Architecture (WSCA 1.0)*, May 2001).

**With respect to claim 8**, Kreger discloses:

- transmitting a search request for a service from a service requester to a management site that searches for software services provided via a

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network (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *where a UDDI operator returns service descriptions to requestor and allows requestor to select a service*);

- obtaining by the search requester a service search result from the management site including information for determining quality of services (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *where a UDDI operator returns service descriptions to requestor; service descriptions based on binding support, historical performance, quality of service classification, proximity or load balancing*); corresponding to a plurality of provider sites, wherein the quality of service information is provided by the provider sites and accumulated by the management sites (pg. 21, paragraph 3-5, “Like publishing web....”, *where QOS information is provided by the web service providers and obtained in a description repository of the UDDI nodes*);
- selecting by the service requester at least one software service based on the obtained search result (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *requestor to selects a service to execute*);
- transmitting a request to execute the selected service to the service provider (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *requestor to selects a service to execute*);

**With respect to claim 24**, Kreger discloses:

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- at least two service providers for providing a software service (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *requestor to selects a service to execute*);
- and a management service comprising a control program for:
  - receiving a service request corresponding to the software service from a service requestor (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *requestor to selects a service to execute*);
  - searching for the at least two service providers (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *requestor to selects a service to execute*);
  - collecting quality of service (QoS) information corresponding to each of the at least two service providers (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *where a UDDI operator returns service descriptions to requestor; service descriptions based on binding support, historical performance, quality of service classification, proximity or load balancing*), wherein the QOS information is provided by the at least two service providers and accumulated by the management service (pg. 21, paragraph 3-5, “Like publishing web....”, *where QOS information is provided by the web service providers and obtained in a description repository of the UDDI nodes*);

- transmitting the QoS information to the service requestor (pg. 22, paragraph 1 “The various types...” to paragraph 5, “After a service...”, *where a UDDI operator returns service descriptions to requestor; service descriptions based on binding support, historical performance, quality of service classification, proximity or load balancing*)

**With respect to claim 27**, the limitations of claim 27 are similar to the limitations of claim 8. Therefore, claim 27 is rejected for the same reasons as claim 8 above. Please see rejection of claim 8.

**With respect to claims 21 and 28**, Kreger discloses wherein the service provider and the management site are different sites (pg. 22, paragraph 4, “If service requestors...”, *UDDI operator and service providers*).

**With respect to claims 22, 25 and 29**, Kreger discloses wherein the information includes a number of times the software services have been used, a frequency of use corresponding to the software services; an execution time corresponding to the software services and a maintenance time corresponding to the software services (pg. 27, paragraph 3, “Quality of Service at...” and pg. 28, paragraph 1, “The second aspect of...” *execution time, timeout values*).

**With respect to claims 23, 26 and 30**, Kreger discloses wherein the information includes a service history resulting from execution of the service (pg. 27, paragraph 3, “Quality of Service at...”, *historical execution averages*).

**(10) Response to Argument**

**With respect to claims 8, 24, and 27,**

- the appellant states Kreger does not disclose, “neither the source of the QOS parameters, nor who advertizes the qualities of services provided”. The examiner respectfully disagrees with the appellant. Kreger discloses in several different sections that the service providers send the QOS information to a registry in the UDDI node, to effectively cause the UDDI node to publish the QOS information to the service requestor. Please see page 7, paragraph 1, “The Web Services architecture....”, page 12, paragraph 2, “Any action that makes a WSDL document.....”, *where the service provider publishes the service description document to a private UDDI registry or node*, and page 21 paragraph 5, “Service requestors can retrieve....”. Therefore, Kreger clearly shows the service providers publishing the QOS parameters to the UDDI node (*management site*), where in turn, the UDDI node provides the QOS parameters to the service requestors.

**With respect to claims 22, 25, and 29,**

- the appellant states Kreger does not disclose, “number of times the software has been used, frequency of use of the software service, execution time of the software service, and the maintenance time of the service”. The examiner respectfully disagrees with the appellant. On page 27, paragraph 3, “Quality of Service at the Web service....”, Kreger



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discloses the quality of service information can provide knowledge on expected execution time at the service level which is directed to the execution time of the software service. The historical execution averages at the service level is directed to the frequency of use and the number of times the software service has been used. To one of ordinary skill in the art at the time the invention was made, the historical execution averages would inherently include determinations of frequency of use of the software service by using the number of times the software has been used. Determining that it is time to initiate recovery corresponds to the maintenance time of the service because when recovery takes place, the system is essentially performing up-keeping of the service.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Esther Benoit/

Conferees:

/Philip C Lee/

Primary Examiner, Art Unit 2453

/Krista M. Zele/

Supervisory Patent Examiner, Art Unit 2453

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